

**REPORT - PLANNING COMMISSION MEETING
September 8, 2005**

Project Name and Number: Vesting Tentative Parcel Map 8739 (PLN2005-00351)

Applicant: Mike Beaver

Proposal: To consider Vesting Tentative Parcel Map 8739 for a 2-lot subdivision and a variance to lot width and setback standards, on a 29,000 square foot parcel located in the Northern Plain Planning Area.

Recommended Action: Approve, based on findings and subject to conditions

Location: 3572 Beard Road

Assessor Parcel Number(s): 543-0336-018-04

Area: 0.67 acres

Owners: Mike Beaver

Consultant(s): Chuck Ludwig, Fremont Engineers, Inc.

Environmental Review: This project is categorically exempt from CEQA per Section 15332; In-Fill Development Projects.

Existing General Plan: Low Density Residential (3 to 5 dwelling units per acre)

Existing Zoning: R-1-10, Single-Family Residence District

Existing Land Use: One single-family dwelling

Public Hearing Notice: Public hearing notification is applicable. A total of XX notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Abercrombie Place, Baskerville Road, Beard Road, Milton Street, Quail Run Court, Quail Run Place and Rowland Drive. The notices to owners and occupants were mailed on August 26, 2005. A Public Hearing Notice was delivered to The Argus on August 22, 2005, to be published by August 25, 2005.

Background and Previous Action: The project site is part of the Beard Road Subdivision Tract recorded with the County of Alameda prior to the City's incorporation. The subject property has an existing approximately 900-square foot single-family residence, recorded to have been built in 1925. On November 18, 2004, the Planning Commission approved Vesting Tentative Tract Map 7556 for the subdivision of the two neighboring lots to the south, approximately 1.66 acres total, into five single-family residential lots with a minimum lot size of 10,000 square feet.

Project Description: The subject property is approximately 0.67 acres, located between Beard Road and Rowland Drive. The lot width is approximately 58 feet wide and the lot depth is approximately 474 feet on the south side property line and approximately 531 feet on the north side property line. The applicant is requesting approval of Vesting Tentative Parcel Map 8739 for a 2-lot subdivision and a variance to lot width and setback standards. The existing single-family residence will remain on Parcel 1, which has ingress/egress off Beard Road. Parcel 1 is proposed to be 12,124 square feet with a lot width of approximately 58 feet and a lot depth of approximately 210 feet. Parcel 2 will have ingress/egress off Rowland Drive and is proposed to be 14,517 square feet. Parcel 2 will have a lot width of approximately 58 feet and a lot depth of approximately 225 feet on the south side property line and approximately 278 feet on the north side property line. The proposal includes street dedication and improvement along the Rowland Drive frontage of Parcel 2. Future development of Parcel 2 will require review by the Development Organization.

Project Analysis:

General Plan Conformance: The existing General Plan Land Use designation for the project site is Low Density Residential, 3 to 5 dwelling units per acre. The proposed project is consistent with the existing General Plan Land Use designation for the project site and the low-density single-family residential development proposed implements Land Use Element Policies and Housing Element Programs. The following General Plan Objective and Policy are applicable to the proposed project:

- **Land Use Policy LU 1.1:** Residential. Residential use is the primary allowed use in a residentially designated area. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.

Analysis: The proposed project meets the requirements of the Low Density Residential 3 to 5 dwelling units per acre designation with 2 dwelling units proposed on approximately 0.67 acres at 3 dwelling units per acre.

- **Housing Element Objective H 3.3:** A range of housing by type, size and cost throughout the City.

Analysis: The proposed project adds to the range in type, size and cost of housing in the City of Fremont by retaining one existing housing unit, while adding one new single-family detached unit on a low-density lots.

Zoning Conformance and Variance Justification: The project site currently has a zoning designation of R-1-10, Single Family Residence District. A single-family detached residential development is a permitted use within the Single Family Residence District [Fremont Municipal Code (FMC) Section 8-2601]. The proposed subdivision is typical of the surrounding uses and development in the neighborhood, particularly given the recent subdivision approved in November 2004 for neighboring lots.

The proposed project consists of the subdivision of an existing lot, totaling approximately 0.67 acres, into two single-family residential lots, each with a minimum lot size that exceeds 10,000 square feet. Any new development on this site would be required to comply with standards and guidelines adopted for the R-1-10 district, as well as all applicable building and zoning regulations. The following table represents lot and siting requirements (FMC Section 8-2605), as well as requested variances.

R-1-10 Zoning Lot & Siting Standards		Variance Requested	
		Parcel 1	Parcel 2
Maximum Building Height	30 feet		
Minimum Lot Size	10,000 square feet		
Minimum Lot Width	80 feet	58 feet	58 feet
Street Frontage	35 feet		
Front Setbacks	25 feet	20 feet	
Side Yard Setbacks	Minimum 8 feet, total 20 feet for 1 st Floor Minimum 10 feet, total 20 feet for 2 nd Floor	Minimum side yard setback 5.7 feet, total 32.2 feet for one story residence	
Rear Setbacks	30 feet for 1 st Floor, 35 feet for 2 nd Floor		

The proposed project is in compliance with the lot area requirement for properties with a R-1-10 zoning designation. The proposed development is also in compliance with the lot area requirement of FMC Section 8-1515 of the Subdivision Ordinance regarding lot standards. In addition, the minimum street frontage provided for each proposed new parcel exceeds the 35 feet requirement.

However, the existing lot and the proposed Parcels 1 and 2 are only 58 feet wide when the required minimum lot width for R-1-10 lots is 80 feet. FMC Section 8-1803 of the Subdivision Ordinance provides the Planning Commission the discretion of permitting a modification from the required standards through a variance if the Planning Commission finds such modifications to be warranted. Although the proposed 58-foot width is not in compliance with the required 80-foot width, the existing parcel width was created many decades before City of Fremont was established and current development standards were adopted.

The applicant seeks a second variance related to the side yard setback requirement on Parcel 1. The applicant is proposing to retain the existing approximately 900-square foot structure (circa 1925) on Parcel 1. The northern side yard setback of this existing single-family residence is 5.7 feet and the southern side yard setback is 26.5 feet. The minimum side yard setback requirement in the R-1-10 zoning district is 8 feet. The existing combined side yard setbacks provided on both sides is 32.2 feet, which exceeds the total side yard setback requirement for both sides of 20 feet.

The applicant also seeks a third variance related to the front yard setback requirement on Parcel 1. The existing front yard setback is 20 feet. The minimum front yard setback for this zoning district is 25 feet. Similar to the lot width situation, the existing residence was built many decades before the City of Fremont was established and the current 25-foot front yard setback standard was adopted. Due to the smaller scale of the existing home (approximately 900 square feet and single story), concerns about large building mass near the street, which can be mitigated by an increased front yard setback, is not as relevant to this situation.

As the applicant has indicated on Attachment "A" – Justification Statement for a Variance Request, there are many lots in the neighborhood that do not meet the minimum lot width requirements and many existing structures, most probably built prior to the City's incorporation, that do not meet current setback standards. Therefore, the applicant believes that granting the requested variances will allow the subject property to be used in a manner similar to other properties in the area, and will not convey any special benefit.

Land Use Compatibility: The subject parcel is located in a predominantly residential area. To the north is Tract 3527, with a zoning of R-1-10. Adjacent to the subject parcel, on the north side is a single lot that measures approximately 58 feet in lot width and a lot depth of 130 feet. To its south is Vesting Tentative Tract Map 7556, a 5-lot subdivision with a zoning of R-1-10. To the east, across Rowland Drive, is Northgate Park. The proposed development is consistent with the adjacent developments in terms of the proposed lot areas.

Circulation / Access Analysis: Access to the subject development will be from Beard Road and Rowland Drive. Both Beard Road and Rowland Drive are collector streets with planned right-of-way of 60 feet and pavement width of 40 feet. Street improvements have been completed along the Beard Road frontage. Rowland Drive requires complete street improvements along the project frontage. The subdivider shall dedicate the required right-of-way and install complete street improvements along the project frontage. Street improvements include, but are not limited to pavement, curb, gutter, sidewalk, landscaping and street trees, and utility service connections. (Condition # B-3 & C-4)

Grading & Drainage: This is an infill project. The existing topography is flat with existing grades ranging between 26 feet and 27 feet above mean sea level. Grading of the site will conform to the surrounding development. Runoff of surface drainage will be to the public street and existing public storm drainage system on Rowland Drive and Milton Street. On-site storm drain design will be reviewed with the subdivision improvement plans and the building permits for the home eventually proposed for Parcel 2. The storm drain system for the project shall be subject to review and approval of the City Engineer and the Alameda Flood Control and Water Conservation District.

Geologic Hazards: The site proposed for development is located within a liquefaction hazard zone, as delineated on the State of California Seismic Hazard Zones, Newark Quadrangle, released July 2, 2003. The project applicant submitted a report by Geotechnical Engineering, Inc., dated May 18, 2005. The report concluded that the site is geotechnically suitable for the proposed subdivision, provided that the geotechnical recommendations within the report are implemented during construction. The report was reviewed and approved by the City's geotechnical peer review consultant and filed with the State Geologist. The geotechnical recommendations in the approved report will be incorporated into the project design and construction. (Conditions # B-13)

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to approval of the final map, the developer must demonstrate compliance with the NPDES permit requirements.

Development Impact Fees: The new dwelling unit within this project will be subject to Citywide Development Impact Fees. These fees will include fees for park facilities, park dedication in-lieu fees, capital facilities, traffic impact, and fire protection. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Environmental Analysis: This project has been determined to be exempt from environmental review pursuant to guidelines of the California Environmental Quality Act section 15332; In-Fill Development Projects.

Enclosures: Exhibit "A" (Vesting Tentative Parcel Map 8739)
Exhibit "B" (Findings and conditions of approval for Variance and Vesting Tentative Parcel Map 8739)

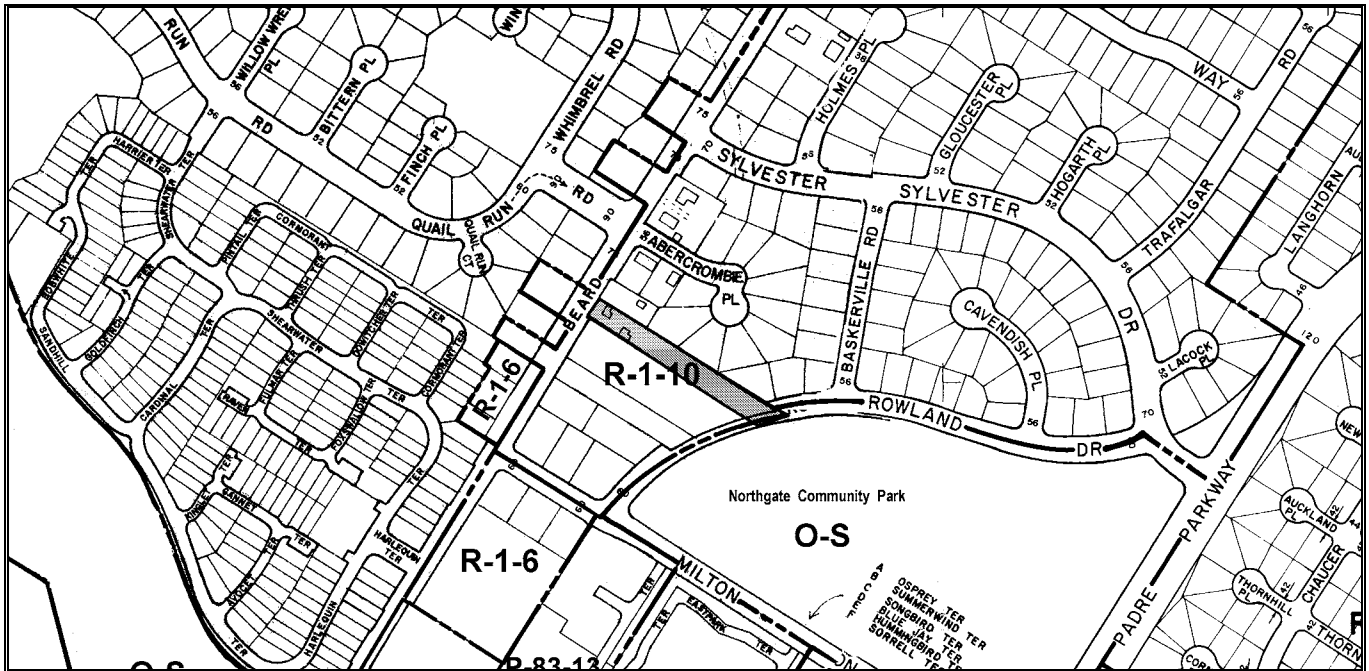
Information: Attachment "A" (Applicant's Variance Justification)

Exhibits: Exhibit "A" (Vesting Tentative Parcel Map 8739)
Exhibit "B" (Findings and conditions of approval for Variance and Vesting Tentative Parcel Map 8739)

Recommended Actions:

1. Hold public hearing.
2. Find the project categorically exempt from California Environmental Quality Act per Section 15332, In-Fill Development Projects.
3. Find PLN2005-00351, consisting of a Variance and Vesting Tentative Parcel Map 8739 are in conformance with the relevant provisions contained in the City's existing General Plan.
4. Find PLN2005-00351, consisting of a Variance and Vesting Tentative Parcel Map 8739 (as shown on Exhibit "A"); fulfill the applicable requirements set forth in the Fremont Municipal Code.
5. Approve PLN2005-00351, consisting of a Variance and Vesting Tentative Tract Map 8739 in conformance with Exhibit "A" based upon the findings and subject to the conditions of approval set forth in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

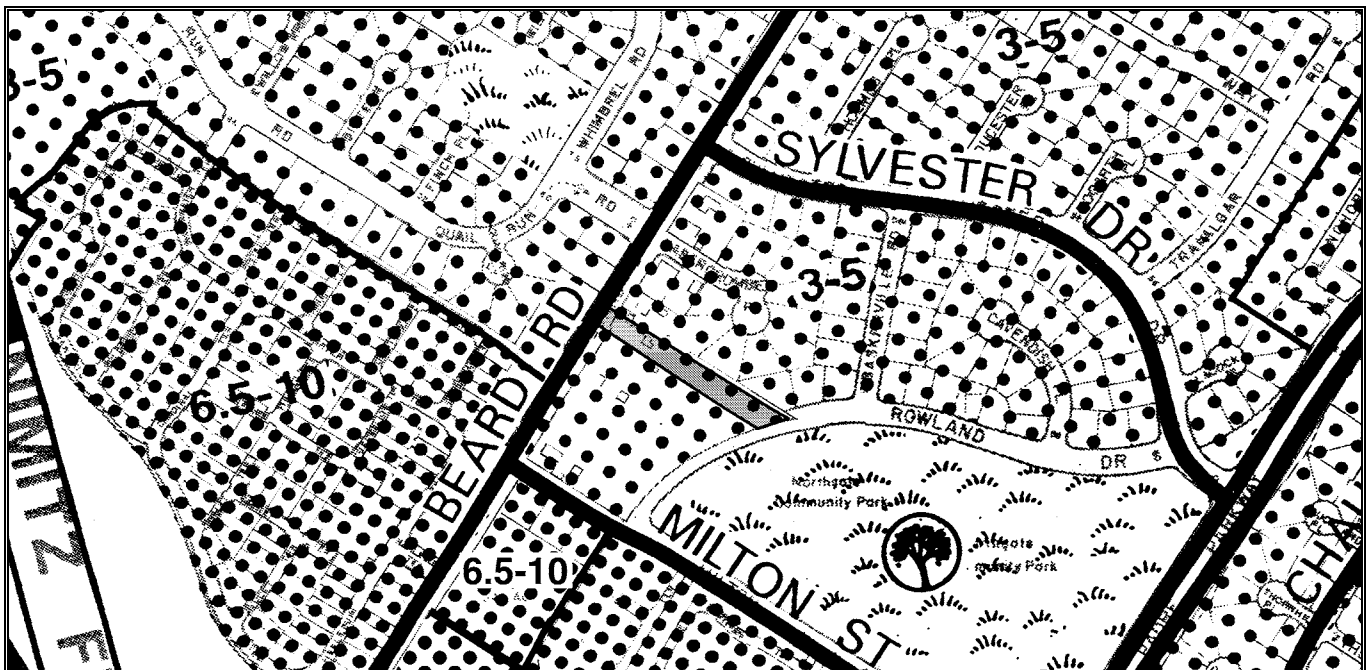


EXHIBIT "B"
BEARD ROAD VESTING TENTATIVE PARCEL MAP 8739 & VARIANCE
(PLN2005-00351)

FINDINGS

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance, excepting there-from that the variances to the lot width and setback standards is warranted because the site configuration, and width of the parcel were created prior to the City incorporation and adoption of current standards – similar to other parcels in the area, privacy is preserved, and the preservation of the existing smaller scale home does not create impacts to the streetscape.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan since the proposed lot configuration is in conformance with the low density residential requirements of the General Plan as each lot exceeds the minimum required 10,000 square feet.
3. The site is physically suitable for the type and proposed density of the development since the site is relatively flat, the existing home will be preserved, and the proposed lot configuration is in conformance with the low-density residential (R-1-10) lot-size requirements of the Zoning Ordinance.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because of the design and location of the development, and because the lot has already been developed with one existing home and a new second home would be developed within an already urbanized area.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems since the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision, as no such public easements exist.
7. The variance shall be subject to such conditions that will assure that the adjustment hereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located because the residence on the Parcel 1 that the side yard setback, the front yard setback and lot width variance pertains to, already exists, and no new structure is proposed, privacy is maintained, the smaller size of the existing residence does not impact the streetscape, and other parcels in the area have been similarly developed prior to City incorporation. In addition, Parcel 2, to which the variance for the lot width pertains, is similar to the lot width of other parcels in the area which were created prior to City incorporation and adoption of more strict lot width standards. Both Parcels 1 and 2 have total parcel areas which exceed the minimum 10,000 square foot size for the district, thus the variance for lot width does not result in crowding of development.
8. The conditions or situation of the specific piece of property or the intended use of the property for which the variance is sought is not of so general or recurrent a nature as to make reasonable/practical the formulation of a general regulation for such conditions or situations because there are no other lots in the vicinity that have the potential of subdividing in the same manner as the subject lots.

GENERAL CONDITIONS:

- A-1. The setbacks shall be in conformance with the requirements for R-1-10 single-family residential district as stated in the Fremont Municipal Code and as amended by Condition # A-7. All other applicable code requirements shall be adhered to.
- A-2. The building designs, including floor plans and elevations, shall be submitted to the Development Organization for staff review to insure neighborhood compatibility of the proposed buildings and conformance with relevant codes, policies and other requirement of the Fremont Municipal Code.
- A-3. Any new building on the site shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, park dedication, capital facilities and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance.
- A-4. To ensure that there are no impacts to adjacent properties, on-site light fixture design, height, intensity and direction shall be designed and oriented to ensure that there is no creation of glare or spilling of light beyond property boundaries.
- A-5. A site investigation is required to be completed on Parcel 2, before the issuance of a grading permit, by a qualified wildlife biologist to determine the presence of burrowing owls. An additional investigation would be required thirty days prior to the commencement of any site grading or clean up. If burrowing owls are indeed present, all work would be required to cease until the wildlife biologist has recommended appropriate actions to be taken to protect the owls. The applicant will be responsible for the implementation of the protective actions, including relocation, prior to the commencement of any site work.
- A-6. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.
- A-7. Development shall comply with current construction hour standards per Fremont Municipal Code (FMC) Section 8-2205.

Engineering Conditions

- B-1. The project shall conform with Exhibit "A" (Vesting Tentative Parcel Map 8739) and all conditions of approval set forth herein.
- B-2. Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
- B-3. The subdivider shall dedicate right-of-way and install complete street improvements for Rowland Drive along the project frontage. Right-of-way dedication is required to provide for the ultimate planned right-of-way of sixty feet, with a pavement width of forty feet. Street improvements include, but are not limited to: installation of pavement, curb, gutter, landscape, irrigation, fire hydrants, storm drain facilities, and other utility facilities.
- B-4. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
- B-5. The developer shall request P.G.& E. to commence with the design of the utility underground work for the proposed development after the Planning Commission approval of Vesting Tentative Parcel Map 8739.

- B-6. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
- B-7. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
- B-8. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
- B-9. All new utility service connections, including electrical and communications, shall be installed underground.
- B-10. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
- B-11. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- B-12. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
- B-13. Site grading and building construction shall implement the recommendations in the approved geotechnical report by Geotechnical Engineering, Inc., dated May 18, 2005.
- B-14. Any future construction at the project site shall comply with standard dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A person shall be designated to oversee the implementation of dust control.
- B-15. Grading operations shall be supervised by an engineer registered in the States of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.
- B-16. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
- B-17. The applicant/owner shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose.
- B-18. The applicant/owner shall submit a detailed soils report including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California.
- B-19. All retaining walls shall be limited to a maximum height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls will be allowed for retaining walls 12 inches or less in height. All retaining walls over 12 inches in height shall be reinforced concrete or approved equal.

- B-20. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
- B-21. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District.
- B-22. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
- B-23. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
- B-24. The minimum drainage slope in swales shall be 1.5%.

Landscape Conditions

- C-1. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail SD-34 City Standard Street Tree Clearances.
- C-2. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. The current copy of the LDRP is available at the Engineering Counter.
- C-3. The applicant shall provide Street trees of 24-inch box size and species "Acer rubrum" in the City right-of-way on all public streets planted in conformance with City Standard Tree Detail SD-34.

Fire Department Conditions

- D-1. The applicant shall install an automatic fire sprinkler system in new residences for fire protection purposes.
- D-2. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A 13R or 13D with local amendments.
- D-3. The sprinkler system shall provide protection to at least all of the following areas garages, carports, bathrooms, concealed spaces, water heater closets, laundry rooms attic spaces, under walks, or overhangs, balconies or decks greater than four feet in depth, and floor landings if wholly or partial enclosed, or other areas as required.
- D-4. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- D-5. The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. CFC 901.3, C.F.C 903.2. and C.F.C 903.3
- D-6. Address must always be visible from Public Street.
- D-7. A driveway access serving one dwelling/structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. These driveways/access roads shall be designated as Fire Lanes.

Driveway/access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Other mitigations shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended) Applies to lot 3.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.